

## Office of the Secretary of Defense

## § 378.4

7920.1, October 17, 1978; the Federal Property Management regulations; and the Federal Acquisition Regulation.

The Director, DIS, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

### PART 378—ASSISTANT TO THE SECRETARY OF DEFENSE FOR INTELLIGENCE OVERSIGHT (ATSD(IO))

Sec.

378.1 Purpose.

378.2 Applicability.

378.3 Definition.

378.4 Responsibilities and functions.

378.5 Relationships.

378.6 Authorities.

AUTHORITY: 10 U.S.C. 113.

SOURCE: 59 FR 43475, Aug. 24, 1994, unless otherwise noted.

#### § 378.1 Purpose.

Under the authority vested in the Secretary of Defense by 10 U.S.C. 113, this part updates the responsibilities, functions, relationships, and authorities of the ATSD(IO), as prescribed herein.

#### § 378.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”).

#### § 378.3 Definition.

*Propriety.* Refers to the standards for intelligence activities promulgated in Executive orders, Presidential Directives, and DoD Directives. Other terms used herein are defined in E.O. 12333, 3 CFR, 1981 Comp., p. 200; DoD Directive 5240.1<sup>1</sup>, and DoD 5240.1-R<sup>2</sup>.

<sup>1</sup>Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

<sup>2</sup>See footnote 1 to § 378.3.

#### § 378.4 Responsibilities and functions.

The Assistant to the Secretary of Defense for Intelligence Oversight shall be responsible for the independent oversight of all intelligence activities in the Department of Defense. In this capacity, the ATSD(IO) shall ensure that all activities performed by intelligence units and all intelligence activities performed by non-intelligence units, are conducted in compliance with Federal law and other laws as appropriate, Executive orders and Presidential Directives, and DoD Directives System issuances. In the exercise of this responsibility, the ATSD(IO) shall:

(a) Develop intelligence oversight policy and, in coordination with the General Counsel of the Department of Defense (GC, DoD), issue intelligence oversight guidance to the DoD intelligence components, including regulatory guidance implementing intelligence oversight aspects of E.O. 12333.

(b) Review, in consultation with the GC, DoD, all allegations that raise questions of the legality or propriety of intelligence activities in the Department of Defense.

(c) Investigate intelligence activities that raise questions of legality or propriety.

(d) Conduct vigorous and independent inspections of the DoD Components that engage in intelligence activities for the purpose of verifying that personnel are familiar and in compliance with E.O. 12333 and its DoD implementing documents. At the request of senior leadership of the Department, and as practicable, the ATSD(IO) will assess and evaluate the performance of DoD's intelligence activities during the course of scheduled inspections and site visits. Reports in these areas of special interest will be provided to the requesting official and the Secretary of Defense for information.

(e) Monitor investigations and inspections conducted by the DoD Components related to intelligence activities, evaluate the findings and, if appropriate, submit recommendations for corrective action to the Secretary and Deputy Secretary of Defense.

(f) Report the following to the Secretary and Deputy Secretary of Defense, and the Intelligence Oversight

## § 378.5

Board of the President's Foreign Intelligence Advisory Board, established under E.O. 12863, 3 CFR, 1993 Comp., p. 632, at least quarterly, in consultation with the GC, DoD:

(1) Any significant oversight activities undertaken; and

(2) Any DoD intelligence activities of questionable legality or propriety, the investigative action on them, an evaluation of completed investigations, and the action taken on completed investigations.

(g) Participate as a member of the Defense Counterintelligence Board (DoD Directive 5240.2<sup>3</sup>).

(h) Pursuant to DoD Directive 5240.12<sup>4</sup>, review and conduct an annual financial audit of all funds generated by DoD Intelligence Commercial Activities, and report the results to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

(i) Review DoD clandestine intelligence activities to ensure compliance with special constraints and controls.

(j) Evaluate the effectiveness of the DoD intelligence components' efforts to protect HUMINT sources, in accordance with DoD Directive S-5205.1<sup>5</sup>.

(k) Participate in the Sensitive Reconnaissance Operations approval process.

(l) Conduct liaison with Federal intelligence and law enforcement agencies (e.g., Central Intelligence Agency, Federal Bureau of Investigation, and Drug Enforcement Administration) at the national level and field locations, as required, to ensure DoD intelligence activities and DoD intelligence support to law enforcement agencies are being conducted properly.

(m) Review the DoD sensitive support provided to the DoD Components and other Federal Agencies, pursuant to DoD Directive S-5210.36<sup>6</sup>, to ensure compliance with DoD policy.

(n) Coordinate, as appropriate, with the DoD Inspector General (DoD IG) on matters relating to the DoD IG's area

<sup>3</sup>See footnote 1 to § 378.3

<sup>4</sup>See footnote 1 to § 378.3

<sup>5</sup>Classified document, not releaseable to the public.

<sup>6</sup>See footnote 5 to § 378.4(j).

## 32 CFR Ch. I (7-1-01 Edition)

of responsibility in accordance with DoD Directive 5106.1<sup>7</sup>.

(o) Perform such other functions as the Secretary of Defense may prescribe.

### § 378.5 Relationships.

(a) In the performance of assigned responsibilities and functions, the ATSD(IO) shall serve under the authority, direction, and control of the Secretary of Defense, and shall:

(1) Report directly to the Secretary and Deputy Secretary of Defense.

(2) Coordinate and exchange information with other OSD officials, heads of the DoD Components, and other Federal officials having collateral or related functions.

(3) Use existing facilities and services of the Department of Defense and other Federal Agencies, when practicable, to avoid duplication and to achieve maximum efficiency and economy.

(b) Other OSD officials and heads of the DoD Components shall coordinate with the ATSD(IO) on all matters related to the responsibilities and functions cited in § 378.4.

### § 378.6 Authorities.

The ATSD(IO) is hereby delegated authority to:

(a) Obtain reports, information, advice, and assistance, consistent with DoD Directive 8910.1<sup>8</sup>, as necessary, in carrying out assigned functions.

(b) Communicate directly with the heads of the DoD Components and, with notification to the Chairman of the Joint Chiefs of Staff, to the Commanders of the Unified Combatant Commands, as necessary, in carrying out assigned functions.

(c) Request such temporary assistance from the DoD Components as may be required for the conduct of inspections or investigations, to include personnel, facilities, and other services. Requests for needed support shall be made in accordance with established procedures.

(d) Communicate directly with the Intelligence Oversight Board of the

<sup>7</sup>See footnote 1 to § 378.3.

<sup>8</sup>See footnote 1 to § 378.3

## Office of the Secretary of Defense

## § 380.2

President's Foreign Intelligence Advisory Board, the Director of Central Intelligence, other Federal officials, representatives of the legislative branch, members of the public, and representatives of foreign governments, as appropriate, in carrying out assigned functions.

(e) Have complete and unrestricted access to all available intelligence-related information, regardless of classification or compartmentation, from all DoD Components and personnel, as required, in carrying out assigned functions. This includes specifically the authority to:

(1) Require an Inspector General or other cognizant investigative official of a DoD Component to report allegations of improprieties or illegalities of intelligence activities by, or within, a DoD Component; and

(2) Obtain information on the status, proceedings, and findings or to obtain copies of reports of investigations of such allegations.

(f) Deal directly with the head of the element inspected or investigated, conduct interviews, take depositions, and examine records incident to an inspection or investigation of any DoD Component, as required, in carrying out assigned functions.

### PART 380—DIRECTOR OF OPERATIONAL TEST AND EVALUATION

Sec.

380.1 Purpose.

380.2 Definitions.

380.3 Policy.

380.4 Responsibilities.

380.5 Functions.

380.6 Relationships.

380.7 Authorities.

AUTHORITY: 10 U.S.C. 136.

SOURCE: 49 FR 17937, Apr. 26, 1984, unless otherwise noted.

#### § 380.1 Purpose.

This part:

(a) Implements section 136a of title 10 U.S.C. which establishes the position of Director of Operational Test and Evaluation (Director, OT&E).

(b) Assigns responsibilities, functions, relationships, and authorities, as prescribed herein, to the Director, OT&E, pursuant to the authority vest-

ed in the Secretary of Defense under title 10 U.S.Code.

#### § 380.2 Definitions.

(a) *DoD Components*. The Office of the Secretary of Defense (OSD); the Military Departments; the Organization of the Joint Chiefs of Staff (OJCS); the Unified and Specified Commands; the Office of the Inspector General, Department of Defense; and the Defense Agencies. The term "Military Services" as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) *Independent Test Agency*. The Army Operational Test and Evaluation Agency, the Navy Operational Test and Evaluation Force, the Air Force Operational Test and Evaluation Command, and the Marine Corps Operational Test and Evaluation Agency.

(c) *Low Rate Initial Production (LRIP)*. The production of a system in limited quantity to be used in OT&E for verification of production engineering and design maturity and to establish a production base.

(d) *Major Defense Acquisition Program*. As specified in section 136a of title 10 U.S.Code.

(1) A DoD acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and:

(i) That is designated by the Secretary of Defense as a major defense acquisition program; or

(ii) That is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than 200 million dollars (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than 1 billion dollars (based on fiscal year 1980 constant dollars).

(2) A DoD acquisition program that is so designated by the Director, OT&E, for the purpose of carrying out the responsibilities, functions, and authorities of this Directive.

(e) *Operational Test and Evaluation*. The field test, under realistic combat conditions, of any item of (or key component of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the